

1 HANS SANCHEZ,

2 Plaintiff,

3 v.

4 GREEN MESSENGERS, INC., et al.,

5 Defendants.

6 Case No. [5:20-cv-06538-EJD](#)7 **ORDER GRANTING MOTION TO
STAY**

8 Re: ECF No. 56

9
10 Plaintiff Hans Sanchez brings this putative class action against Defendants Green
11 Messengers, Inc. (“Green Messengers”) and Amazon.com Services, LLC (“Amazon”), alleging
12 various wage and hour violations under the California Labor Code and California Business and
13 Professions Code. Third Am. Compl. (“TAC”), ECF No. 47. Now before the Court is Amazon’s
14 motion to stay pending the resolution of state administrative proceedings before the California
15 Labor Commissioner. Mot. to Stay (“Mot.”), ECF No. 56. The Court finds this motion suitable
16 for decision without oral argument. *See Civil L.R. 7-1(b).* Having considered the parties’
17 submissions and the record in this matter, the Court GRANTS the motion to stay.
18
1920 **I. BACKGROUND**21 **A. Factual Background**22 Plaintiff is a former delivery driver employed by Green Messengers, a company which
23 contracted with Amazon to provide delivery services. TAC ¶ 9, 39. During Plaintiff’s time as a
24 delivery driver, Amazon allegedly planned and scheduled routes, controlled the hours worked by
25 drivers, determined wages, and had the power to remove drivers from their jobs. *Id.* ¶¶ 9, 11, 15-
26 16. According to Plaintiff, he and other putative class members were denied legally mandated
27 meal periods and rest periods, were not paid all wages earned, were not reimbursed for business
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1 expenses, and were not provided with accurate wage statements. *Id.* ¶¶ 40-65.

2 **B. Procedural Background**

3 Plaintiff initially filed suit in Santa Clara Superior Court, and his case was removed to this
4 Court on September 17, 2020. Notice of Removal, ECF No. 1. He twice amended his complaint,
5 after which the Court granted Amazon's motion to dismiss with leave to amend. First Am.
6 Compl., ECF No. 19; Second Am. Compl., ECF No. 26; Order Granting Mot. to Dismiss, ECF
7 No. 45. Plaintiff then filed the operative complaint on November 29, 2021, and Amazon answered
8 on January 12, 2022. TAC; Answer, ECF No. 51.

9 Concurrent with this action, the California Labor Commissioner conducted a parallel
10 investigation. Request for Judicial Notice ("RJN"), ECF No. 57, Ex. E.¹ On January 19, 2021, the
11 Labor Commissioner issued Wage Citations against Defendants for violations that were in large
12 part similar to Plaintiff's claims in this suit. RJN, Exs. C-D. Defendants appealed, and those
13 appeals are currently pending before the Labor Commissioner's Office. RJN, Ex. E; Mot. at 4;
14 Opp'n to Mot. ("Opp'n"), ECF No. 64, at 8.

15 **II. DISCUSSION**

16 **A. Choice of *Landis* or *Colorado River***

17 The parties dispute the proper standard for a stay in these circumstances. Amazon
18 contends that the Court may stay this action under *Landis v. North American Co.*, 299 U.S. 248
19 (1936). Mot. at 9-14. The authority for a stay under *Landis* arises from a court's inherent power
20 "to control the disposition of the causes on its docket with economy of time and effort for itself,
21 for counsel, and for litigants." 299 U.S. at 254; *see also Leyva v. Certified Grocers of Cal., Ltd.*,
22 593 F.2d 857, 863 (9th Cir. 1979) ("A trial court may, with propriety, find it is efficient for its

23
24 ¹ Amazon requests judicial notice of Exhibits A through E, which consist of correspondence
25 between Plaintiff and the California Labor & Workforce Development Agency (Exhibits A and
26 B), the Wage Citations against Defendants (Exhibits C and D), and a press release by the Labor
27 Commissioner regarding those Wage Citations (Exhibit E). RJN, Exs. A-E. The Court GRANTS
28 Amazon's request as to Exhibits C through E. *See Minor v. FedEx Office & Print Servs., Inc.*, 78
F. Supp. 3d 1021, 1027-28 (N.D. Cal. 2015) (taking notice of records of state agencies); *In re Am.
Apparel, Inc. S'holder Litig.*, 855 F. Supp. 2d 1043, 1062 (C.D. Cal. 2012) (taking notice of press
releases). The Court DENIES AS MOOT Amazon's request as to Exhibits A and B because the
Court does not rely on those documents.

1 own docket and the fairest course for the parties to enter a stay of an action before it, pending
2 resolution of independent proceedings which bear upon the case.”). Plaintiff disagrees, arguing
3 that the Court must apply the more restrictive abstention standard under *Colorado River Water*
4 *Conservation District v. United States*, 424 U.S. 800 (1976). Opp’n at 1. In his view, *Colorado*
5 *River* applies exclusively when a party seeks to stay a federal action in favor of concurrent state
6 proceedings, and *Landis* applies when a party seeks to stay a federal action in favor of another
7 federal action. *Id.*

8 The law on this issue is unsettled in the Ninth Circuit, and district courts have diverged in
9 their approaches. *See AmGuard Ins. Co. v. Optima Funeral Home, Inc.*, No. CV 22-4179-MWF
10 (JCx), 2022 WL 18142556, at *3-4 (C.D. Cal. Nov. 29, 2022) (observing the lack of binding
11 Supreme Court or Ninth Circuit precedent and collecting cases); *Noble v. JP Morgan Chase Bank,*
12 *Nat'l Ass'n*, No. 22-cv-02879-LB, 2022 WL 4229311, at *6-7 (N.D. Cal. Sept. 13, 2022) (same).

13 Courts holding that *Landis* may apply in cases involving concurrent federal-state
14 proceedings generally focus on the extent to which granting a stay would operate to abdicate the
15 federal court’s jurisdiction. For example, in *Pacific Structures, Inc. v. Greenwich Insurance Co.*, a
16 court in this district granted a stay under *Landis* after previously denying the stay under *Colorado*
17 *River*. No. 21-cv-04438-HSG, 2022 WL 2673087 (N.D. Cal. June 15, 2022). Although it
18 originally held that *Colorado River* applied when evaluating a stay in favor of state proceedings,
19 the court reached a different conclusion with the benefit of additional briefing. *Id.* at *1.
20 Examining the rationales behind *Colorado River* and *Landis*, the court explained that *Colorado*
21 *River* contemplates that a federal court will have nothing left to do following a stay, while *Landis*
22 only contemplates postponing a case so that other proceedings can resolve narrow factual or legal
23 issues. *Id.* On this basis, *Pacific Structures* applied the *Landis* test because the party seeking the
24 stay expected state proceedings to narrow issues before the federal court, not to fully resolve all
25 claims. *Id.* at *2; *see also, e.g., AmGuard*, 2022 WL 18142556, at *5 (“[T]he Court concludes that
26 *Landis* is applicable here because the claims and parties differ from those in the Underlying
27 Action and a stay would not amount to a surrender of jurisdiction.”); *United Specialty Ins. Co. v.*
28 *Bani Auto Grp., Inc.*, No. 18-cv-01649-BLF, 2018 WL 5291992, at *1, 4, 8 (N.D. Cal. Oct. 23,

1 2018) (denying a motion to dismiss in favor of state proceedings under *Colorado River* but then
2 granting a stay under *Landis*); *Klein v. Cook*, No. 5:14-cv-03634-EJD, 2015 WL 2454056, at *2-3
3 (N.D. Cal. May 22, 2015) (applying *Landis* rather than *Colorado River* to stay federal proceedings
4 in favor of a suit in state court). *But see, e.g., Fisk Elec. Co. v. Obayashi Corp.*, No. 18-cv-07671-
5 EMC, 2021 WL 197671, at *2 (N.D. Cal. Jan. 20, 2021) (“When the parallel case is a state court
6 action, as here, a stay may be granted pursuant to the *Colorado River* doctrine only.”); *AIRAM*
7 *LLC v. KB Home*, No. 19-CV-00269-LHK, 2019 WL 3779185, at *6 (N.D. Cal. Aug. 12, 2019)
8 (holding that *Landis* and *Colorado River* are not alternatives and that *Colorado River* applies in
9 situations involving concurrent federal and state jurisdiction).

10 The Ninth Circuit, too, has suggested that district courts may issue stays in favor of state
11 proceedings through *Landis*, albeit in a nonbinding memorandum decision. *See Patel v. City of*
12 *Los Angeles*, 594 F. App’x 415 (9th Cir. 2015). In *Patel*, the Ninth Circuit held that the district
13 court erred by abstaining in favor of state proceedings, but it then indicated that the district court
14 could still exercise its “broad discretion to stay proceedings as an incident to its power to control
15 its own docket,” *id.* at 416 (quoting *Clinton v. Jones*, 520 U.S. 681, 706-07 (1997)), explicitly
16 citing *Landis* for the proposition that “such a stay may be entered until Patel’s mandamus petition
17 has been resolved in state court.” *Id.* Several courts have cited to *Patel* in concluding that they
18 may apply *Landis* to stay federal proceedings while state proceedings are pending. *See, e.g.,*
19 *Noble*, 2022 WL 4229311, at *7; *Icon at Panorama, LLC v. Sw. Reg’l Council of Carpenters*, No.
20 CV 19-00181 CBM(MRWx), 2020 WL 5751228, at *1-2 (C.D. Cal. Mar. 12, 2020).

21 This position also finds support in the reasoning of *Colorado River* and its progeny. In
22 *Colorado River*, the Supreme Court reviewed the dismissal of a federal water rights action in favor
23 of state proceedings. 424 U.S. at 806. It drew a distinction between situations involving federal-
24 federal concurrent jurisdiction and those involving federal-state concurrent jurisdiction. *Id.* at 817.
25 As to the former, the Supreme Court explained that “the general principle is to avoid duplicative
26 litigation.” *Id.* By contrast, the general principle for the latter is that “the pendency of an action in
27 the state court is no bar to proceedings concerning the same matter in the Federal court.” *Id.*
28 (quoting *McClellan v. Carland*, 217 U.S. 268, 282 (1910)). However, the difference in approach

1 did not stem from the idea that concurrent state proceedings deserved less deference than
2 concurrent federal proceedings. Instead, the Supreme Court made clear that the justification for
3 that difference was “the virtually unflagging obligation of the federal courts to exercise the
4 jurisdiction given them.” *Id.* Consequently, when a stay would not serve to divest a federal court
5 of its jurisdiction, the reasons counseling in favor of applying *Colorado River*’s demanding
6 requirements do not exist.

7 The Supreme Court’s later decision in *Moses H. Cone Memorial Hospital v. Mercury*
8 *Construction Corp.*, 460 U.S. 1 (1983), further reinforces this conclusion. *Moses H. Cone*
9 involved the district court’s decision to stay efforts in federal court to compel arbitration while
10 parallel efforts seeking to prevent arbitration played out in state court. *Id.* at 7. The Supreme
11 Court held that the *Colorado River* standard could apply to stays in addition to dismissals, but it
12 noted that a stay under *Colorado River* presumes “that the parallel state-court litigation will be an
13 adequate vehicle for the complete and prompt resolution of the issues between the parties.” *Id.* at
14 27-28. That is, when a stay functions as “a refusal to exercise federal jurisdiction,” the *Colorado*
15 *River* test is required. *Id.* at 28.

16 Finally, in *Will v. Calvert Fire Insurance Co.*, decided between *Colorado River* and *Moses*
17 *H. Cone*, a plurality of the Supreme Court emphasized that “a district court’s decision to defer
18 proceedings because of concurrent state litigation is generally committed to the discretion of that
19 court.” 437 U.S. 655, 665 (1978) (plurality opinion). This was the case because a district court,
20 when “confronted both with competing demands on [its] time for matters properly within [its]
21 jurisdiction and with inevitable scheduling difficulties because of the unavailability of lawyers,
22 parties, and witnesses, is [] entrusted with a wide latitude in setting [its] own calendar.” *Id.* Such
23 reasoning sounds in a court’s inherent power to control its docket under *Landis* and therefore
24 indicates that applying *Landis* in the face of parallel state proceedings may be appropriate in some
25 instances.

26 The import of the three Supreme Court cases above is that the purpose of *Colorado River*’s
27 strict test is to safeguard the exercise of federal jurisdiction, and in the absence of concerns that a
28 stay would effectively deprive the federal court of jurisdiction, a court may issue a stay under its

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power to control its docket and calendar. Plaintiff's authorities to the contrary do not mandate a different conclusion. None of Plaintiff's Ninth Circuit citations involved consideration of whether *Landis* was available to stay a federal action in favor of concurrent state proceedings. That the Ninth Circuit applied *Colorado River* shows only that the doctrine *can* apply in such situations, not that it *must*, and it does not show that *Landis* is categorically inapplicable whenever concurrent state proceedings are involved. The rest of Plaintiff's authorities are not binding on this Court. And in fact, two of them support this Court's conclusion. In *Cottrell v. Duke*, the Eighth Circuit observed that "a district court retains its inherent power to control its docket when facing concurrent state and federal litigation." 737 F.3d 1238, 1249 (8th Cir. 2013). It held that a district court is prevented from applying *Landis* only when "the effect of [a stay] is to accomplish the same result contemplated by *Colorado River*," *i.e.*, when a stay "effectively dismisse[s] the federal proceeding in favor of a concurrent state dispute." *Id.* Likewise, *Stoltz v. Fry Foods, Inc.* explained that *Landis* stays involve postponement of federal proceedings and "serve[] only to narrow the factual or legal issues" while *Colorado River* stays "represent a complete abdication" of the federal court's jurisdiction. 60 F. Supp. 3d 1132, 1136-37 (D. Idaho 2014). The *Stoltz* court proceeded to apply *Colorado River* because "[r]unning throughout [the plaintiff's] argument is the assumption that there will be nothing more for this Court to do once a stay is entered." *Id.* at 1137. Both cases align exactly with this Court's determination that *Landis* can apply if a stay would not be dispositive of the entire case.²

In conclusion, the Court finds that while *Colorado River* generally applies to stays pending state proceedings, in situations where the state proceedings would not fully resolve all issues before the federal court, *Landis* may also apply. That is the case here, where Plaintiff raises an expense reimbursement claim that is not present in the concurrent state proceedings before the Labor Commissioner. Compare RJN, Exs. C-D, with TAC ¶ 1. Accordingly, the Court shall analyze Amazon's motion under *Landis*.

² Plaintiff makes a final argument that allowing *Landis* to apply would undermine *Colorado River* by rendering one of its factors redundant. Opp'n at 6. As the Court has already explained, allowing *Landis* to apply in certain situations is consistent with the purposes of *Colorado River*.

1 **B. Application of *Landis***

2 Under *Landis*, a court deciding whether to stay proceedings weighs three competing
3 interests: (1) “the possible damage which may result from the granting of a stay”; (2) “the hardship
4 or inequity which a party may suffer in being required to go forward”; and (3) “the orderly course
5 of justice measured in terms of the simplifying or complicating of issues, proof, and questions of
6 law which could be expected to result from a stay.” *Lockyer v. Mirant Corp.*, 398 F.3d 1098,
7 1110 (9th Cir. 2005) (quoting *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962)).

8 First, the Court finds that Plaintiff would suffer little, if any, damage from a stay. There is
9 no allegation of ongoing violations, and Plaintiff is not seeking injunctive relief. *See Lockyer*, 398
10 F.3d at 1110 (delay in monetary compensation when a plaintiff sought no injunctive relief does
11 not weigh heavily against a stay). Moreover, the state proceedings themselves involve alleged
12 violations that overlap with the claims here, and a decision upholding the Wage Citations against
13 Defendants would require them to compensate the putative class, including Plaintiff. *See R.J.N.*
14 Exs. C-D. Plaintiff’s primary arguments for why he will be damaged are that he may not recover
15 anything from the state proceedings or may be able to recover more in this action, that evidence
16 may be lost, and that any delay would be too long to justify a stay. Opp’n at 19-20. But the risk
17 that Plaintiff may not prevail is present in this action as well as in the state proceedings, and as
18 discussed above, any delay in further recovery that he might receive does not weigh heavily in this
19 analysis. Nor is there any indication that evidence is at risk except for Plaintiff’s say-so. As for
20 Plaintiff’s concerns about the potential length of a stay, he is correct that “[a] stay should not be
21 granted unless it appears likely the other proceedings will be concluded within a reasonable time
22 in relation to the urgency of the claims presented to the court.” *Leyva*, 593 F.2d at 864. In this
23 case, the Court does not find that a stay until the Labor Commissioner issues a decision would be
24 unreasonably long. *See Landis*, 299 U.S. at 256-57 (staying an action until a decision by the court
25 in a parallel action was appropriate). If proceedings before the Labor Commissioner become
26 protracted beyond reason, Plaintiff may move to lift the stay at that point. Accordingly, the first
27 *Landis* factor weighs in favor of a stay.

28 Second, the Court finds that Amazon would suffer hardship absent a stay. Although the
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1 burden of simultaneous litigation is not something that factors strongly in the stay analysis, *Klein*,
 2 2015 WL 2454056, at *4, Amazon's arguments about the prospect of inconsistent results and
 3 piecemeal litigation over the same issues are persuasive. *Cal. Dep't of Water Res. v. Powerex*
 4 *Corp.*, 653 F. Supp. 2d 1057, 1065 (E.D. Cal. 2009). The fact that some claims before this Court
 5 may not present any risk of conflicting rulings does not obviate the need for a stay because many
 6 of the claims do overlap between this case and the state proceedings. *See* Mot. at 8. Thus, the
 7 second *Landis* factor also weighs in favor of a stay.

8 Third, the Court finds that the orderly course of justice weighs in favor of a stay because
 9 the state proceedings will likely simplify many of the issues before the Court due to the
 10 overlapping nature of the claims. The avoidance of potentially inconsistent rulings also “promotes
 11 judicial efficiency and supports a stay.” *Pac. Structures*, 2022 WL 2673087, at *2. Therefore, the
 12 third *Landis* factor weighs in favor of a stay as well.

13 The Court finds in its discretion that a stay of this action pending resolution of the
 14 proceedings before the Labor Commissioner best serves the efficient use of judicial and party
 15 resources.³

16 **III. CONCLUSION**

17 The Court GRANTS Amazon's motion to stay. The parties shall file a joint status report
 18 regarding the status of the proceedings before the Labor Commissioner one year from the date of
 19 this Order. Thereafter, the parties shall file joint status reports every six months. Following the
 20 filing of each status report, the Court will consider whether the stay should be lifted. The parties
 21 shall file a status report notifying the Court within five (5) days of the resolution of the
 22 proceedings before the Labor Commissioner.

23 **IT IS SO ORDERED.**

24 Dated: March 31, 2023



EDWARD J. DAVILA
United States District Judge

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 27
 28 ³ Because the Court grants Amazon's motion under *Landis*, it does not address Amazon's
 argument that California Labor Code Section 2699(h) is an alternate basis for staying this action.
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